

# **Middletown Zoning Board of Review**

**May 28, 2013**

**Administrative: Roll Call: Present at the meeting were Chairman, Peter Van Steeden, Vice Chairman, Thomas Silveira, Stephen MacGillivray(secretary), Charles Vaillincourt (absent ); James Miller, and alternates Nicholas Pasyanos (voting member tonight) and Olin Gambrell.**

**Adoption of Minutes:**

**Continuances/Withdrawals:**

**Petition of: 210 Coddington Realty Trust- c/o Evan S. Leviss Esq.- 15 Old Beach Rd- Newport, RI (applicant)- To appeal the issuance of Sign Permit# S-2011-00000221 under Section 317 of the Middletown Zoning Ordinance issued on June 10, 2011 to reface the existing off premise sign. Said real estate located at the corner of Underwood Lane adjacent to 210 Coddington Highway. Letter from attorney requesting withdrawal without prejudice. Silveira /Macgillivry 5-0 approved withdrawal.**

**Petition of: Gertrude Realty LLC- PO Box 119 - Newport, RI (owner)- Gertrude Realty LLC C/O Ted Platz- 1038 Aquidneck Ave- Middletown, RI (applicant) - for a Special Use Permit from Section 602- to convert existing property into a small scale shopping center. Said real estate**

located at 1038 Aquidneck Ave and further identified as Lot 106 on Tax Assessor's Plat 113. Applicant unavailable. Continued to June 25, 2013.

Petition of: Daniel G Kamin BJ's of Middletown, LLC- 490 South Highland Ave. - Pittsburg, PA (owner)- BJ's Wholesale Club, Inc- 25 Research Dr.- PO Box 5230- Westborough, MA (applicant)- for a Special Use Permit from Section 602(B)- to allow the construction of a propane dispensing facility in a (GBA) General Business/Traffic Sensitive zoning district consisting of two 1,000 gallon above ground LPG tanks and related appurtenances. Said real estate located at 173 East Main Road and further identified as Lot 107 on Tax Assessor's Plat 107SE. Readvertised.

Petition of: Daniel G Kamin BJ's of Middletown, LLC- 490 South Highland Ave. - Pittsburg, PA (owner)- BJ's Wholesale Club, Inc- 25 Research Dr.- PO Box 5230- Westborough, MA (applicant)- for a Special Use Permit from Section 602(B) & 1106- to allow the construction of a propane dispensing facility in a (GBA) General Business/Traffic Sensitive zoning district and Zone 2 of the Watershed Protection District consisting of two 1,000 gallon above ground LPG tanks and related appurtenances. Said real estate located at 173 East Main Road and further identified as Lot 107 on Tax Assessor's Plat 107SE (corrected). Continued because of further hearing before Conservation Commission. Continued to June 25, 2013.

**Petition of: Daniel G Kamin BJ's of Middletown, LLC- 490 South Highland Ave. - Pittsburg, PA (owner)- BJ's Wholesale Club, Inc- 25 Research Dr.- PO Box 5230- Westborough, MA (applicant)- for a Variance from Section 1304- to allow 345 off-street parking spaces where 355 parking spaces are required. Said real estate located at 173 East Main Road and further identified as Lot 107 on Tax Assessor's Plat 107SE. Continued because of further hearing before Conservation Commission. Continued to June 25, 2013.**

**Full Hearings:**

**Petition of: Dennis & Mary Turano- 182 Tuckerman Ave- Middletown, RI (owners)- for a Variance from Sections 603, 701 & 803G- to allow the construction of 1,409.7 sq. ft first & second floor additions and construct 1,584 sq. ft. total combined decks on first & second floor with a front yard setback of 11.5' where 25' is required and a right side yard setback of 13.6' where 15' is required and a rear yard setback of 12.9' where 30' is required and resulting in 35% lot coverage where 25% is allowed. Said real estate located at 195 Tuckerman Ave and further identified as Lot 30 on Tax Assessor's Plat 116SE.**

**Argument and testimony was given by the following: This was continued and Charles Vaillancourt had a conflict. This was continued because the drawings were inadequate. Dennis and Mary testify. Exh. 1 (Elevations) Exh. 2**

**Motion to approve was made by:Silveira**

**The motion was seconded by:Miller**

**The application was approved by a vote of 4-1. Stephen MacGillivray voting ney.**

**Petition of: Linda Phelan- 272 Mitchells Ln.- Middletown, RI (owner)- for a Variance from Article 4 & Section 603- to allow the construction of a single family dwelling with developable land area of 38,902 sq. ft. where 40,000 sq. ft. is required. Said real estate located at Mitchell's Ln and further identified as Lot 13 on Tax Assessor's Plat 123.**

**Argument and testimony was given by the following: Linda Phelan presents her case.**

**Motion to approve was made by: Thomas Silveira**

**The motion was seconded by: James Miller**

**The application was approved by a vote of 5-0.**

**Petition of: Linda Phelan- 272 Mitchells Ln.- Middletown, RI (owner)- for a Special Use Permit from Section 1106- to allow the construction of a single family dwelling in Zone 1 of the Watershed Protection District. Said real estate located at Mitchell's Ln and further identified as Lot 13 on Tax Assessor's Plat 123.**

**Argument and testimony was given by the following: Linda Phelan presents her case.**

**Motion to approve was made by: Thomas Silveira**

**The motion was seconded by: Nick Pasyanos.**

**The application was approved by a vote of 5-0.**

**Petition of: Dr. George P. Lewis, Lewis Family LP III- 100 Bailey Ave- Middletown, RI (owner)- by his attorney Brian G. Bardorf- Bardorf & Bardorf PC- 36 Washington Sq.- Newport, RI- for a Special Use Permit from Sections 1103 & 1108- to allow the construction of a single family dwelling located in zone 1 of the Water Protection District. Said real estate located at 14 Lewis Drive and further identified as Lot 947 (formerly lot 935-D) on Tax Assessor's Plat 125.**

**Argument and testimony was given by the following: Brian Bardorf presents. Same relief as before, but the two years limitation on the special use. Doctor Lewis provides testimony that nothing has changed.**

**Motion to approve was made by:Silveira moves to incorporate the conditions contained in the Planning Board approval.**

**The motion was seconded by: Nick Pasyanos**

**The application was approved by a vote of 5-0.**

**Petition of: Philip John Rondina- 379 Third Beach Rd.- Middletown, RI (owner)- by his attorney Robert M. Silva, Esq.- 1100 Aquidneck Ave- Middletown, RI- for a Variance from Sections 603, 701 & 703(A)- to**

**allow the construction of a 24' x 36' barn on existing foundation with a side yard setback of 16.1' where 30' is required and a rear yard setback of 55.3' where 60' is required. Said real estate located at Cordeiro Terr and further identified as Lot 59 on Tax Assessor's Plat 126.**

**Argument and testimony was given by the following: Robert Silva presents March 30, 2013. No requested use relief. Exh. 1 (Old Barn)**

**Motion to approve was made by: Stephen MacGillivray**

**The motion was seconded by: Thomas Silveira**

**The application was approved by a vote of 5-0.**

**Petition of: 957 Plaza Associates, LLC- Polo Center 678 Aquidneck Ave- Middletown, RI (owner)-Site Enhancement Services/ Patrick Huyge- 6001 Nimitz Parkway- South Bend, IN (applicant)- for a Special Use Permit from Sections 1211(D) 2b & 1211 (F) 4a- Advanced Auto Parts is requesting to construct an internally illuminated cloud cabinet wall sign on a 237 square foot sign panel where 70 square feet is allowed. Said real estate located at 957 West Main Rd and further identified as Lot 117 on Tax Assessor's Plat 106.**

**Argument and testimony was given by the following: this is a continuance from last meeting ago. Exh. 1 (various pictures).**

**Motion to approve was made by: Thomas Silveira**

**The motion was seconded by: Nicholas Pasyanos**

**The application was approved by a vote of 5-0.**

**Petition of: Khent Doon Trust- 535 Indian Ave- Middletown, RI (owner)- Frank Arakel Bozyan, Trustee & Elizabeth Pike Bozyan, Trustee (applicant)- for a Variance from Sections 603- to allow lot #4 of the proposed subdivision to have 47.07' frontage where 120' is required. Said real estate located at 535, 561, 583 & 591 Indian Ave and further identified as Lots 73 & 300 on Tax Assessor's Plat 129.**

**Argument and testimony was given by the following: Attorney Bardoff, Mr. and Mrs. Elizabeth Pike Bozyan,**

**Motion to approve was made by: Tom Silveira**

**The motion was seconded by: Butch Gambrel**

**The application was approved by a vote of 5 – 0**

**Petition of: Gerald & Essie Hembree- 2 Gae St- Middletown, RI (owners)- for a Variance from Sections 603, 701 & 703B- to construct a 361 sq. ft. carport located within 5' of the principal structure where 10' is required, with a front yard setback of 6.5' where 25' is required, a side yard setback of 1.0' where 15' is required and resulting in lot coverage of 28% where 25% is allowed. Said real estate located at 2 Gae St and further identified as Lot 46 on Tax Assessor's Plat 113.**

**Argument and testimony was given by the following: Essie Hembree.**

**Motion to approve was made by: Stephen MacGilivray**

**The motion was seconded by: James Miller**

**The application was approved by a vote of 5-0.**

**Petition of: Elaine Dunn and Ann Marie Roche- 178 Vernon Ave- Middletown, RI (owners)- Nanette Dunn- 178 Vernon Ave- Middletown, RI (applicant)- by their attorney Jeremiah C. Lynch, III for a Variance from Sections 603 & 701- to demolish the existing dwelling and garage and construct a single family dwelling with attached deck with a front yard setback of 28.9' where 40' is required and a left side yard setback of 13.6' and a right side yard setback of 11.2' where 20' is required and construct a detached garage with a left side yard setback of 12.1' where 20' is required. Said real estate located at 316 Boulevard and further identified as Lot 137 on Tax Assessor's Plat 109NE.**

**Argument and testimony was given by the following: Jeremiah Lynch – Nanette Dunn testifies. Ed Dunn of Newport.**

**Motion to approve was made by: Thomas Silveira**

**The motion was seconded by: Stephen MacGillivray**

**The application was approved by a vote of 5-0.**

**Petition of: Middletown Plaza LLC- PO Box 6187- Warwick, RI (owner)- National Sign By: Heather Dudko- 2 Phoebe Way- Worcester, MA (applicant)- for a Special Use Permit from Section 1212- to allow an internally illuminated wall mounted box cabinet sign (Aldi's) and a**



**second wall sign (Food Market) where one per tenant is allowed. Said real estate located at 872+ West Main Road (dba #890) and further identified as Lot 55 on Tax Assessor's Plat 107NW. Continuance requested by Robert M. Silva who is entering his appearance. Continued to June 25, 2013.**

**The meeting was convened at 8:50 pm.**